

4-26-103 Definitions -- Qualified landowners' and qualified adjoining landowners' partition fences -- Contribution -- Civil action for damages.

(1) As used in this section:

- (a) "Qualified adjoining landowner" means a private landowner whose land adjoins the land of a qualified landowner and is used for grazing livestock or as habitat for big game wildlife and:
 - (i) is land which qualifies under the definition of "conservation easement" as defined in Section 57-18-2, under Title 57, Chapter 18, Land Conservation Easement Act; or
 - (ii) is "land in agricultural use" that meets the requirements of Section 59-2-502.
- (b) "Qualified landowner" means a private landowner whose land is used for grazing livestock and:
 - (i) is land which qualifies under the definition of "conservation easement" as defined in Section 57-18-2, under Title 57, Chapter 18, Land Conservation Easement Act; or
 - (ii) is "land in agricultural use" that meets the requirements of Section 59-2-502.
- (2) A qualified landowner may require the qualified adjoining landowner to pay for one-half of the cost of the fence if:
 - (a) the fence is or becomes a partition fence separating the qualified landowner's land from that belonging to the qualified adjoining landowner;
 - (b) the cost is reasonable for that type of fence;
 - (c) that type of fence is commonly found in that particular area; and
 - (d) the construction of the fence is no more expensive than the cost for posts, wire, and connectors.
- (3) If the qualified adjoining landowner refuses, the qualified landowner may maintain a civil action against the qualified adjoining landowner for one-half of the cost of that portion of the fence.
- (4) The cost of the maintenance of the fence shall also be apportioned between each party based on the amount of land enclosed. A party who fails to maintain that party's part of the fence is also liable in a civil action for any damage sustained by the other party as a result of the failure to maintain the fence.

Renumbered and Amended by Chapter 331, 2012 General Session